HB 1100 PN 1593 Kaufer		Bill Summary 6/6/19
Committee:	**Research:**	**Phone:**
Finance	Sarah Filauri	0-6619

DESCRIPTION:

Tax Reform Code/Energy and Fertilizer Manufacturing Tax Credit.

A. SYNOPSIS:

Amends the Tax Reform Code (Act 2 of 1971) to create the Energy and Fertilizer Manufacturing Tax Credit (EFMTC).

B. BILL SUMMARY:

HB 1100 establishes the EFMTC of five cents per gallon of methane purchased to manufacture petrochemicals or fertilizers by a qualified taxpayer.

A "qualified taxpayer" is a company that:

- Purchases methane for use in manufacturing petrochemicals or fertilizers at a PA facility placed in service on or after the bill's effective date;
- Makes a capital investment of at least $1 billion in order to construct the facility and place it into service in PA; and
- Creates at least 1,000 full time equivalent jobs during the construction phase in order to construct the facility and place it into service in PA.

Application for Tax Credit:
A qualified taxpayer must submit an application by March 1 to the Department of Revenue (DOR) for the tax credit claimed for methane purchased and used during the prior calendar year. DOR is responsible for prescribing an application and any additional information necessary to document the amount of methane purchased and used.

DOR must review and approve or disapprove the tax credit application by March 20, and if approved, issue a certificate stating the amount of tax credit granted.

Use of Tax Credit:
The tax credit may be applied against up to 20% of the qualified taxpayer's qualified tax liabilities for the year in which the credit was approved, provided that all other statutory tax credits and deductions available to that taxpayer have already been utilized. A qualified taxpayer granted an EFMTC is ineligible for any other tax credit found in the Tax Reform Code.

A qualified taxpayer granted an EFMTC must first use the tax credit for its own qualified liabilities within the year the credit was awarded before it is eligible for sale or assignment.

Sale or Assignment of Tax Credit:
A qualified taxpayer must submit an application to the Department of Community and Economic Development (DCED) in order to sell or assign a tax credit.

To approve the sale or assignment, DCED must receive a finding from DOR that the applicant has: (1) filed all required State tax reports and returns for all applicable taxable years, and (2) paid any balance of State tax due.

A qualified taxpayer must certify that it offered to sell or assign the EFMTC exclusively to a "downstream" company for a period of 30 days following approval AND subsequently to an "upstream" or downstream company for an additional 30 days prior to requesting sale or assignment to any other company.

- Upstream Company: engaged in the exploration, development, production, processing, refining or transportation of natural gas, natural gas liquids or petroleum in PA.
- Downstream Company: uses chemical products or chemical compounds manufactured or processed by a qualified taxpayer in the company's production process in PA.

Use of Sold or Assigned Tax Credit:
The tax credit must be utilized in the calendar year in which the purchase or assignment is made and cannot be applied to more than 50% of the recipient's qualified tax liabilities in the taxable year.

The purchaser or assignee may not sell or assign the purchased or assigned tax credit.

Pass Through Entities:
A pass-through entity may elect in writing to transfer all or part of the unused tax credit to shareholders, members or partners in proportion to the share of the entity's distribution he or she is entitled to. The same unused credit cannot be claimed by both the entity and the individual shareholder, member, or partner. The transferee must claim the credit within the year the transfer is made and may not sell or assign the credit.

Reports:
DOR must issue an annual report which documents the approval, utilization, sale and assignment of the tax credit to the General Assembly by October 1, 2020 and every October 1 thereafter.

DCED must issue a reconciliation report on the effectiveness of the tax credit on May 1, 2030. The report must include at a minimum:

- Name and business address of all qualified taxpayers who have been granted tax credits
- Amount of tax credits granted to each qualified taxpayer
- Total number of jobs created (including average annual salary and hourly wage information) and the amount of taxes paid (state and local) by the qualified taxpayer, upstream and downstream companies, and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream and downstream companies.

Expiration date: December 31, 2050.

Effective date: 60 days.

C. CURRENT LAW:

Act 85 of 2012 established the PA Resource Manufacturing Tax Credit (PARMA). Beginning in 2017, any manufacturer purchasing natural gas containing ethane to be used as a petrochemical feedstock at a facility within the Commonwealth is eligible for a PARMA Tax Credit of five cents per gallon of ethane purchased and used in manufacturing ethylene. To receive the credit, the company must make a capital investment of at least $1 billion and create the equivalent of at least 2,500 full-time jobs in construction of the facility.